UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

CARMEN POWELL, Plaintiffs, v. CITY OF CHULA VISTA, et al., Defendants.	Civil No. 07CV1836 **ORDER DENYING MOTIONS TO DISMISS AS MOOT** [Doc. Nos. 11, 20 and 23]

Plaintiff, a nonprisoner appearing *pro se*, filed a § 1983 action against eleven defendants on September 19, 2007. On January 9, 2008, Defendant Julie Smith filed a motion to dismiss. Doc. No. 11. On January 11, 2008, Defendants Rady Children's Hospital and Diana Chase filed a joint motion to dismiss. Doc. No. 20. Rady Children's Hospital and Ms. Chase also filed a notice of joinder as to Ms. Smith's motion to dismiss. Doc. No. 21. On January 23, 2008, Defendant Morteza Mirkarimi filed his own motion to dismiss. Doc. No. 23. All three motions to dismiss came on for hearing on April 28, 2008.

At the hearing, this Court dismissed Defendants Children's Hospital, Diana Chase and Dr. Morteza Mirkarimi without prejudice. This Court also dismissed with prejudice two of Plaintiff's three causes of action – violations of 18 U.S.C. § 242, Deprivations of Rights Under Color of State Law, and 18 U.S.C. § 241, Conspiracy Against Rights. Because Plaintiff indicated that she was in the process of drafting an amended complaint, the Court directed Plaintiff to file her amended complaint by May 20, 2008.

On May 22, 2008, Plaintiff lodged with the Court a first amended complaint. The Court directed that the document be filed *nunc pro tunc*. See Doc. Nos. 40 and 41. Because the first amended complaint is now the operative complaint in this matter, Defendants' motions to dismiss the original complaint are hereby **DENIED as moot**. The Court notes that because Defendants Children's Hospital, Diana Chase and Dr. Morteza Mirkarimi were not named in the amended complaint, those Defendants remain **TERMINATED** from this matter.

Dated: June 17, 2008

JOHN A. HOUSTON
United States District Judge